

Remarks

This is in response to the final Office Action mailed on September 15, 2004. Claims 1, 12, 15, 19, 21, 23, 24, and 27 have been amended, support for the amendments being found, for example, at page 10, lines 1-7 of the present application. Claims 1-24, 26, and 27 remain pending in the application, with claims 1, 12, 15, 19, 21, 23, 24, and 27 being independent. Reconsideration and allowance are respectfully requested in view of the following remarks.

In section 3 of the Office Action, claims 1-3, 7, 12, 15, 17-19, 21, 23, 24, 26, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,965,707 to *Butterfield* in view of U.S. Patent No. 6,053,165 to *Butler et al.*, U.S. Patent No. 2,606,574 to *Lefebvre*, and U.S. Patent No. 5,195,820 to *Rehberg*. In sections 4-9 of the Office Action, claims 4-6, 8-11, 13, 14, 16, 20, and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Butterfield* in view of *Butler*, *Lefebvre*, and *Rehberg* and in further view of various references, including: *Auer*, U.S. Patent No. 1,692,021; *White*, GB 249,321; *Busby et al.*, GB 2 072 832; *Whittaker et al.*, U.S. Patent No. 4,726,351; *Hess et al.*, U.S. Patent No. 5,642,580; and the article "Glass" from Microsoft® Encarta® Online Encyclopedia 2003. These rejections are respectfully traversed, and the correctness of the rejections is not conceded.

Independent claims 1, 12, 15, 19, 21, 23, 24, and 27 all recite a plurality of translucent artificial embers, wherein paint is applied to some of the plurality of translucent artificial embers and some of the plurality of translucent artificial embers are not painted. Applying paint to only some of the plurality of translucent artificial embers can result in a more realistic-looking ember bed. Application, p. 10, ll. 1-7.

None of the references, alone or in combination, discloses or suggests a plurality of translucent artificial embers configured as recited in claims 1, 12, 15, 19, 21, 23, 24, and 27.

For example, *Rehberg* discloses an ember bed with an upper surface that is colored gray and an under surface that is painted with a pattern of red and orange. *Rehberg*, col. 3, ll. 25-28. However, *Rehberg* fails to disclose or suggest a plurality of translucent artificial embers, wherein paint is applied to some of the plurality of translucent artificial embers and some of the plurality of translucent artificial embers are not painted, as recited by claims 1, 12, 15, 19, 21, 23, 24, and 27.

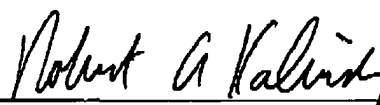
Reconsideration and allowance of claims 1, 12, 15, 19, 21, 23, 24, and 27, as well as claims 2-11, 13, 14, 16-18, 20, 22, and 26 that depend respectively therefrom, are respectfully requested for at least these reasons.

The remarks set forth above provide certain arguments in support of the patentability of the pending claims. There may be other reasons that the pending claims are patentably distinct over the cited references, and the right to raise any such other reasons or arguments in the future is expressly reserved.

In view of the above amendments and remarks, claims 1-24, 26, and 27 are in condition for allowance. Reconsideration and allowance are respectfully requested. The Examiner is encouraged to contact the undersigned attorney with any questions regarding this application.

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